



**BOISE, THURSDAY, OCTOBER 11, 2007, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33698**

<b>ELMER F. WHITE,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>GENEVIEVE L. WHITE,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. D. Duff McKee, District Judge. Hon. Lowell D. Castleton, Magistrate.

Derek A. Pica, Boise, for appellant.

Bevis, Johnson & Thiry, Boise, for respondent.

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Elmer F. and Genevieve L. White were married in 1958. In March 2005, Elmer filed a complaint for legal separation. Genevieve filed an answer and a counterclaim seeking a divorce, spousal maintenance, a greater share of the community marital assets, and attorney fees. After a bench trial, the magistrate entered an order granting the divorce on the basis of irreconcilable differences, dividing the property substantially equally, denying spousal maintenance to Genevieve, and requiring each party to pay their respective attorney fees. Genevieve appealed the denial of spousal maintenance and the division of property to the district court.

On intermediate appeal, the district court affirmed the decision of the magistrate and awarded costs to Elmer. The district court also required each party to pay their respective attorney fees. Genevieve again appeals, arguing that the magistrate erred in determining that she was not entitled to spousal maintenance, erred by not granting her request for an unequal division of the marital assets, and erred by denying her request that Elmer pay her attorney fees. Both parties request attorney fees on this appeal.

**BOISE, THURSDAY, OCTOBER 11, 2007, AT 10:30 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33655**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Appellant,</b>	)
	)
<b>v.</b>	)
	)
<b>JASON SHEPPERD,</b>	)
	)
<b>Defendant-Respondent.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. D. Duff McKee, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Daniel W. Bower, Deputy Attorney General, Boise, for appellant.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for respondent.

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Jason Shepperd and his estranged wife Tara Shepperd had a child together, Cody. One evening in October 2004, Tara dropped off Cody, almost five months old at the time, at Jason's residence per an informal visitation agreement between the two.

When Tara returned to pick up Cody, Jason emerged holding the baby and invited her onto the porch. The two engaged in casual conversation on various topics. Cody became upset and when Jason carried him back inside, Tara followed. The conversation continued as Cody became increasingly agitated. Tara repeatedly asked Jason to give her Cody, but he requested more time to settle him down. Tara finally took Cody out of Jason's arms, and as she was exiting, Jason picked her and the child up from behind, forcibly expelled them from the house, and shut the door.

As a result of the incident, Jason was charged with domestic battery in the presence of a child, Idaho Code § 18-918, and injury to a child, I.C. § 18-1501(2). At trial, Jason argued the jury should be instructed on the theory of defense of property, but the court refused. He was found guilty of domestic battery, but was acquitted of the injury to a child charge. On intermediate appeal, the district court concluded the trial court erred in not instructing the jury on defense of property and remanded for a new trial. The state now appeals.

**BOISE, THURSDAY, OCTOBER 11, 2007, AT 1:30 P.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 32398**

<b>FREDERICK J. ANDERSON,</b>	)
	)
<b>Petitioner-Appellant,</b>	)
	)
<b>v.</b>	)
	)
<b>STATE OF IDAHO,</b>	)
	)
<b>Respondent.</b>	)
_____	)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Peter D. McDermott, District Judge.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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In this appeal, Frederick J. Anderson challenges the summary dismissal of his petition for post-conviction relief. In his petition, Anderson raised five claims, including the assertion that his defense attorney was ineffective for advising him that he did not have a viable challenge to a persistent violator sentence enhancement. He contends that summary dismissal was improper because he presented evidence to support this claim.

Anderson also argues that the district court should not have granted the state's motion for summary dismissal because he did not receive adequate notice of the grounds for dismissal. The state argues that the notice was sufficient, that Anderson waived his right to more specific notice by not objecting below, and that any error was harmless.

**BOISE, THURSDAY, OCTOBER 11, 2007, AT 3:00 P.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33475**

<b>IN THE MATTER OF JOHN DOE, A</b>	)
<b>MINOR UNDER 18 YEARS OF AGE.</b>	)
<hr/> <b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>JOHN DOE,</b>	)
	)
<b>Defendant-Appellant.</b>	)
<hr/>	)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Robin M. Weeks, Twin Falls County Public Defender, Twin Falls, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Courtney E. Beebe, Deputy Attorney General, Boise, for respondent.

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John Doe, a minor, was involved in an argument with his parents on July 7, 2005. The police were called to his parents' residence twice that evening. During their second visit to the residence, the police arrested Doe. The state filed a petition alleging that Doe fell under the purview of the Juvenile Corrections Act (JCA). The petition alleged that Doe committed two counts of being incorrigible in violation of Twin Falls City Ordinance 6-6-3. The first count was for "arguing with his parents," and the second count was for "leaving the house without permission." The magistrate held an adjudicatory hearing. At the close of the state's evidence, Doe moved to have the case dismissed, arguing the state had not met its burden of proof. The magistrate denied the motion. The magistrate subsequently found that Doe fell within the purview of the JCA for being incorrigible by arguing with his parents, as charged in the first count, but not for leaving the house without permission, as charged in the second count. Doe appealed to the district court. The district court affirmed the decree of the magistrate finding Doe to be within the purview of the JCA. Doe again appeals.

**BOISE, THURSDAY, OCTOBER 25, 2007, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33028**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>ROBERT SCOTT LIPPERT,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Second Judicial District, State of Idaho, Clearwater County. Hon. Carl B. Kerrick, District Judge.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Thomas Tharp, Deputy Attorney General, Boise, for respondent.

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In July 2005, Robert Scott Lippert's daughter, K.Y., reported to police that Lippert had sexually abused her when she was fifteen years old in March 1998. Based on K.Y.'s report of this incident, the state charged Lippert with sexual abuse of a child under the age of sixteen years. Lippert expressed dissatisfaction with his court-appointed counsel prior to trial, but the district court did not replace Lippert's counsel. Also prior to trial, the state indicated that it sought to introduce testimony of nine separate acts of abuse by Lippert other than the abuse alleged in the charging instrument. The district court ruled that much of the proffered testimony of Lippert's other acts would be admissible at trial. The state ultimately introduced most of that testimony at trial, and a jury found Lippert guilty as charged. Lippert appeals, asserting that the district court erred by admitting prior bad acts evidence at his trial, deprived him of his right to represent himself by failing to inform him of that right, and conducted an inadequate inquiry into his complaints about his court-appointed counsel.

**BOISE, THURSDAY, OCTOBER 25, 2007, AT 10:30 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33041**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>JERRY WAYNE LARAMORE,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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Laramore was convicted of attempted strangulation, I.C. § 18-923. On appeal, he contends that the district court's jury instruction defining reasonable doubt violated his right to due process because it lessened the State's burden of proof. Laramore also contends that the district court erred by denying his motion to dismiss brought on the grounds that the statute under which he was convicted was unconstitutionally vague regarding the statutory definition of the required intent and the definition of "dating relationship." Laramore also contends that the district court should have dismissed the charge on the ground that the statute violated his right to trial by jury because it required that the existence of a dating relationship be found by the court instead of the jury.

**BOISE, THURSDAY, OCTOBER 25, 2007, AT 1:30 P.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 33425**

<b>AMY AITCHISON, the natural mother of</b>	)
<b>CALEB AITCHISON,</b>	)
	)
<b>Plaintiff-Appellant,</b>	)
	)
<b>v.</b>	)
	)
<b>WENDELL LAWRENCE and KATHLEEN</b>	)
<b>LAWRENCE, husband and wife, and DOES</b>	)
<b>I - V, unknown Defendants,</b>	)
	)
<b>Defendants-Respondents.</b>	)
	)

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Ronald J. Wilper, District Judge.

Foley Freeman Borton, PLLC, Meridian, for appellant.

Moffatt, Thomas, Barrett, Rock & Fields, Boise, for respondent.

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On September 22, 2005, Amy Aitchison filed a complaint for wrongful death against Wendell and Kathleen Lawrence and several Ada County defendants, followed the next day by an amended complaint. According to Idaho Rule of Civil Procedure 4(a)(2), Aitchison had until March 23, 2006 to complete service of process on the parties. Aitchison moved for an extension of time to serve process on the Lawrences on February 17, 2006, and the district court granted an extension of time until July 27, 2006. The Lawrences were served a copy of the first amended complaint and summons to appear on April 8, 2006, and promptly filed a motion to dismiss for failure to serve process within six months.

The district court granted the motion to dismiss stating that it lacked authority to grant an extension of time to serve process after the six-month limit had already expired. The court subsequently denied Aitchison's motions to reconsider the order dismissing her claims and for relief from dismissal, reiterating that it lacked the authority to extend time after the six-month deadline passed and alternatively, based on Aitchison's failure to meet the requirements of I.R.C.P. 4(a)(2).

Aitchison appeals, raising the issue of whether the district court erred in granting the motion to dismiss.